

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD A. MATHIOUS, JR.,

Plaintiff,

v.

JO ANNE B. BARNHART,

Defendant.

Case Number 05-74714

Hon. David M. Lawson

Magistrate Judge Steven D. Pepe

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
GRANTING IN PART PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT,
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, AND
REMANDING CASE FOR FURTHER ADMINISTRATIVE PROCEEDINGS**

Presently before the Court is the report issued on March 29, 2007 by Magistrate Judge Steven D. Pepe pursuant to 28 U.S.C. § 636(b), recommending that this Court grant in part the plaintiff's motion for summary judgement, deny the defendant's motion for summary judgment, and remand the case for further administrative proceedings. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 13] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's motion for summary judgment [dkt # 8] is

GRANTED IN PART.

It is further **ORDERED** that the defendant's motion for summary judgment [dkt # 11] is **DENIED**.

It is further **ORDERED** that the case is **REMANDED** for further administrative proceedings consistent with the Magistrate Judge's Report and Recommendation.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: April 23, 2007

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 23, 2007.

s/Felicia M. Moses
FELICIA M. MOSES